

FINANCIAL COMMISSIONER'S OFFICE, HARYANA

The 1st April, 1974

No. 1075-E(III)-74/9625.—The result of the Departmental Examination of Tahsildars held at Chandigarh in the month of February, 1974 is hereby notified in regard of the candidates noted below:—

Serial No.	District	Name and designation	Criminal Law	Civil Law	Revenue Law	Local Funds	Financial Rules (Treasury)	Patwari's Mansurat	Urdu	Subjects in which the candidate must pass in order to complete the examination	Remarks
1	2	3	4	5	6	7	8	9	10	11	12
1.	Rohtak ..	Sarvshri— Jai Pal 'A' Class Tahsildar candidate	Failed	..	..	Passed	..	..	..	Criminal Law and Urdu	
2.	Do	Siri Krishan N.T., Bahadur- garh	Failed	Failed	..	Failed	..	..	Passed	Criminal Law, Civil Law Local Funds and Treasury	
3.	Hissar ..	Jaswant Singh Rajput, 'A' Class Tahsildar candidate	..	Failed	..	..	Failed	..	..	Civil Law, Treasury and Urdu	
4.	Do	Mangal Ram Bhagwaria, 'A' Class, Tahsil- dar candidate	..	..	..	Passed	..	..	..	Urdu	
5.	Gurgaon ..	Ram Chander, N.T., Estate Office, Farida- bad	Failed	Failed	Failed	Passed	..	..	..	Criminal Law, Civil Law and Revenue Law	
6.	Ambala ..	Parshotam Dass, Sadar Kanungo, Ambala	Failed	Passed	Passed	..	..	Passed	Passed	Criminal Law, Local Funds and Treasury	

S. D. BHAMBRI,
Financial Commissioner, Revenue,
Haryana.

LABOUR DEPARTMENT

The 25th/29th March, 1974

No. 2065-4Lab-74/9347.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s J. M. A. Industries (P). Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 68 of 1973

between

SHRI BALDEV SAHAI, WORKMAN AND THE MANAGEMENT OF M/s J. M. A.
INDUSTRIES (P), LTD., MATHURA ROAD, FARIDABAD

Present—

Shri Baldev Sahai concerned workman with Shri O. P. Talwar and Shri Krishan Lal Sharma.

Shri S. L. Gupta and Shri K. L. Khurana, for the management.

AWARD

Shri Baldev Sahai concerned workman was in the service of M/s J. M. A. Industries, (P) Ltd. Mathura Road, Faridabad, as a Clerk-cum-Cashier having joined service in January, 1966. The management allegedly terminated his services with effect from 1st January, 1971, without any justification. He raised a demand for reinstatement but without success. The dispute was taken up for conciliation,—*vide* demand notice dated 29th January, 1973, which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this Tribunal,—*vide* order No. (ID/FD/180/18244, dated 25th May, 1973, in exercise of the powers conferred by clause (d) of sub-section 1) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference :—

Whether the termination of services of Shri Baldev Sahai was justified and in order ? If not, to what relief is he entitled ?

The parties were called upon to put in their statements in writing. Shri Baldev Sahai filed the statement of claim on 6th August, 1973, reiterating his demand for reinstatement with continuity of service and payment of full-back wages contending that his services had been terminated by the management illegally on account of his trade union activities. In the written statement filed on behalf of the management it was alleged that, as a matter of fact Shri Baldev Sahai had submitted his resignation on 10th December, 1972 effective from 31st December, 1972, and wanted to be relieved at the earliest. It was further stated that the resignation was accepted on the same day and he took his full and final settlement of account on 17th December, 1972 against vouchers as per details given in the written statement. The management further alleged that the reference was ill-conceived and invalid and since the demand, the subject matter of the reference was not first raised on the management and rejected by it, it did not constitute an industrial dispute within the meaning of the law.

The following three issues arose for determination from the pleadings of the parties :—

- (1) Whether the demand the subject matter of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation ? If not, with what effect ? (on workman)
- (2) Whether the present reference is ill-conceived and invalid for reasons given in the preliminary objections Nos. 1 to 3 of the written statement of the management ? (on management)
- (3) Whether the termination of services of Shri Baldev Sahai was justified and in order ? If not, to what relief is he entitled ?

Shri Baldev Sahai concerned workman has made his own statement besides examining Shri S. K. Taneja W. W. 1 whose service had also allegedly been terminated by the management without any justification but he did not raise any dispute. The documentary evidence relied upon by Shri Baldev Sahai consists of telegram Ex. W-1, written statement filed by the management in application under section 33 (C) (2) of the Industrial Disputes Act, 1947, in the Labour Court Ex. WP 2. Protest letter dated 24th February, 1971, addressed by him to the Factory Manager Exhibit W-3. The management has examined its Factory Manager Shri K. L. Khurana M. W. 1 who has proved two vouchers dated 17th December, 1972, for Rs. 903 and Rs. 447.45 respectively Ex. M-1 and M-2, resignation letter of Shri Baldev Sahai dated 10th December, 1972, Ex. M-3 containing his signatures at point 'A' denoting that the acceptance of the resignation had been communicated to him on the same day, Certificate of service dated December 17, 1972 Ex. M-4, Bonus entitlement slip dated 15th December, 1972, Ex. M-5, Supporting vouchers Ex. M-6, M-7, M-8, M-9 and M-10.

The case has been fully argued on both sides and I have given a considered thought to the material on record. As would be clear from the pursual of various documents produced by the management, which are admitted by the workman, it is a clear case of resignation and acceptance of the same by the management. The contention raised on behalf of the workman is that the resignation Ex. M-3 was obtained from him under duress which is, however, belied by his own conduct and the overwhelming documentary evidence produced in the case on behalf of the management. In the first instance, it has not been shown as to why the management should have obtained his resignation under duress or coercion. It is admittedly signed by him and he has also noted its acceptance on the same day under his signatures at point 'A' on Ex. M-3. Even if it be assumed for the sake of arguments that this resignation was not tendered voluntarily by him, he was under no compulsion to receive payment of his full dues a week later on 17th December, 1972 through vouchers Ex. M-1, M-2, which are also admitted by him. He has not denied the supporting vouchers Ex. M-6, M-7, M-8, M-9 and M-10 which are also signed by him. He further received bonus entitlement slip Ex. M-5. The matter does not end here. According to the

management he had asked for service certificate which was admittedly received by him on 17th December, 1972, under his signatures Ex. M-4 on record. If he had really no intention of working in this concern it does not stand to reason that he would have asked for and received the certificate Ex. M-4. The payment vouchers Ex. M-1, M-2 do not indicate that he had received these amounts under any protest. All these facts taken together go a long way to establish that, as a matter of fact, Shri Baldev Sahai concerned workman had submitted the resignation Ex. M-3 of his own accord, without any pressure or coercion by the management, and as such the question of the termination of his service by the management does not arise.

In view of the voluntary resignation submitted by this workman and its acceptance by the management and communication of the acceptance of the resignation to him on the same day further supported by the fact that he had willingly received his dues in full and final settlement of his entire claims.

The conclusion is irresistible that in fact no industrial dispute existed between the parties nor had Shri Baldev Sahai any cause of action to raise the dispute in the circumstances of the case discussed above.

There is another aspect of the case that deserves consideration. According to the rule of law laid down by the Hon'ble the Supreme Court in the Sandhu Resettlement Corporation case the demand has first to be raised direct on the management and rejected by it before taking up the matter for conciliation to constitute an industrial dispute within the meaning of law. Nothing of the sort has been established in the present case. The mere communication of the demand notice by the Conciliation Officer to the management is not sufficient to satisfy the requirements of the law in this behalf. All that has been proved in the instant case is the demand notice dated 29th January, 1973 which forms part of the present reference and on the basis of which the conciliation proceedings were initiated. I have been referred to a letter dated 4th January, 1973, which is also addressed to the Conciliation Officer and has not even been got exhibited. The telegram Ex. W-1 does not relate to Shri Baldev Sahai. The protest letter Ex. W-3 dated 24th February, 1971, is also of no help to the workman as it relates to some other incident long before the submission of the resignation dated 10th December, 1972, by him.

That finishes the entire case no other point worth consideration has been urged. The demand having not been properly raised in accordance with the rule of law laid down in the Sindhu Resettlement Corporation case it did not constitute an industrial dispute within the meaning of law. Otherwise also, it being clearly a case of voluntary resignation by the workman and its due acceptance by the management. The present reference is ill-conceived and invalid. So, for the reason aforesaid all the issues involved in the case are decided against the workman holding that he is not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly but without any order as to costs.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No 249, dated the 27th February, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment, Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 26th February, 1974.

No. 2058-4Lab-74/9349.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s. Haryana Textile Mills, Bhiwani :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR, COURT, HARYANA,
ROHTAK

Reference No. 130 of 1973

Between

SHRIMATI YAUSHODA DEVI AND THE MANAGEMENT OF M/S HARYANA TEXTILE
MILLS, BHIWANI

Present.—

Shri Sagar Ram Gupta, for the worker.
Shri G. K. Rajdan, for the management.

AWARD

The following dispute between the management of M/s Haryana Textile Mills, Bhiwani and its worker Shrimati Yaushoda Devi was referred for adjudication to this court by order No. ID/HSR/117-A-73/13449-53, dated 11th April, 1973 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947.

"Whether the termination of services of Shrimati Yaushoda Devi was justified and in order? If not, to what relief is she entitled?"

On receipt of the order reference, usual notices were given to the parties and they put in their respective written statements. The issue that arose for determination in the case from the pleadings of the parties was precisely the same as per the term of reference stated above.

Statements of the factory manager Shri G. K. Rajdan and Shrimati Yaushoda Devi concerned worker have been recorded. As would be clear from the discussions that follow, no further enquiry is necessary in the present reference in view of the above statements made on both sides and admission of the management on certain vital points involved in the case.

I have heard the learned representatives of the parties and given a considered thought to the material on record.

As would be clear from the order of reference and the facts brought on record by the parties it is a case of dismissal from service of the worker concerned. According to the statement of the factory manager Shri G. K. Rajdan on 28th December, 1972 when she was getting out of the factory at the close of the working hours, the watchman searched her Tiffen Box in the presence of other lady workers and found hidden in it a baby cap, a lady handkerchief and a pair of baby socks. He made a complaint Exhibit M. 1. Shrimati Yaushoda Devi was verbally asked to explain her conduct and as she did not confess her guilt she was dismissed from service taking into consideration the serious nature of the offence of the theft allegedly committed by her. He has however, admitted in clear and unambiguous words that no chargesheet was given to her nor her explanation taken in writing what to speak of holding a domestic enquiry into the matter. On the other hand, the worker concerned has totally denied the above charge of theft levelled against her by the management and stated that the impugned action of dismissal from service has been taken against her only by way of victimisation. He authorised representative has argued that she was, in fact, playing a leading role in organising the lady workers in the factory and the management was displeased on account of these activities. He has further pointed out certain material contradiction in the case now stated on behalf of the management and the plea earlier taken in the conciliation proceedings. A copy of the conciliation proceedings has been placed on record by the management itself which is Exhibit M. 2. A perusal of the report of the Conciliation Officer would show that according to the case of the management this lady worker had been caught red handed while stealthily removing from the factory 2 more items, namely, a Jersi and a pair of gloves besides a baby cap, a lady handkerchief and a pair of baby socks as stated above. A specific suggestion was made to the Factory Manager Shri G. K. Rajdan M. W. 1 in cross-examination about the additional items of Jersi and a pair of gloves, but he denied in so many words the recovery of the same from the Tiffen Box of the worker concerned. According to him she was guilty of the theft of the said 3 items only and nothing else. Strongly enough no report was lodged with the police. The alleged theft of the articles belonging to the factory had not taken place nor had it been detected in the presence of the Factory Manager who dismissed this worker from service without any enquiry.

At any rate, the fact remains that the punitive section of dismissal from service against the worker concerned has been taken by the management by setting at naught the principles of natural justice. In all fairness, she should have been given the chargesheet relating to the alleged offence of theft which, as already pointed out, has been specifically denied by her and after taking her explanation in writing a proper domestic enquiry should have been held against her after giving her adequate opportunity of defending her case. But nothing of the sort was done. The management straight away dismissed her from service without communicating to her the charge and without holding any enquiry after taking her explanation and giving her an opportunity to produce her defence, if any. The law is well settled on the point it is a basic principle of law that no body should be condemned unheard. Here it was the case of old lady who had already put in some service with the management and has admittedly been out of job ever since she was dismissed from service by the management without being gainfully employed anywhere, else.

So, taking into consideration all the facts and the circumstances of the case and the showing of the management itself, the dismissal from service of the present worker which has been brought about by flagrant violation of the principles of natural justice can not by any stretch of imagination be held to be justified and in order. The management might have been ignorant of the requirements of the law and the procedure in the matter but such an ignorance can not be treated as a valid cause to justify the impugned action of punishment against the worker by way of dismissal from service. The issue is

accordingly decided in her favour and against the management and, in the result, she is held entitled to reinstatement with continuity of her previous service and full back wages. The award is made accordingly. The management shall also pay Rs. 50 to the worker as costs of the present proceedings.

Dated 26th February, 1974.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endst. No. 523, dated 1st March, 1974.

Forwarded, (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2067-4-Lab-74/9351.—In pursuance of the provisions of section 17 of the Industrial Dispute Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of Messrs Northern India Sales Corporation (Usha Sales) (P) Ltd., Sadar Bazar, Gurgaon.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 30 of 1973

between

SHRI NIRANJAN LAL, WORKMAN AND THE MANAGEMENT OF MESSRS NORTHERN INDIA SALES CORPORATION (USHA SALES) PRIVATE LIMITED, SADAR BAZAR, GURGAON (HARYANA)

Present:—

Shri Ashok Aggarwal with Shri Niranjan Lal, concerned workman.

Shri C. M. Lal, for the management.

AWARD;

Shri Niranjan Lal, concerned workman was in the service of Messrs Northern India Sales Corporation (Usha Sales) with its head office at Delhi but the actual place of his posting was in the show-room at Sadar Bazar Gurgaon. The management discharged him from service,—*vide* order dated October 10, 1972, copy Ex. M-1 on record. Feeling aggrieved by this order, he wrote the letter dated 18th October, 1972, copy Ex. M-28 contending that the impugned order of his discharge from service was one sided and illegal as this order has been passed without giving him the opportunity of being heard as provided under the Constitution and he would, therefore, claim relief in the court of law. The management did not accede to his request for reinstatement. This gave rise to an industrial dispute and the Governor of Haryana referred the dispute for adjudication to this Tribunal, *vide* order No. ID/GG/138-A-73/101250, dated 13th March, 1973, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 with the following terms of reference:—

Whether the termination of services of Shri Niranjan Lal was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, the parties were called upon to put in their respective written statements. Shri Niranjan Lal concerned workman in the statement of claim filed in the case contended that the order of his discharge from service had been made illegally and by way of victimisation. It was further urged that the management had harassed him by transferring him to a far off place and by bringing him under retrenchment in violation of the provisions of section 25-F(b) and (c). With the above averment in brief. He claimed reinstatement with continuity of back service and full back wages.

The management contested his claim on merits pleading *inter alia* that the Haryana Government had territorial jurisdiction to entertain the alleged dispute and referred it for adjudication to this Court as the retail sh

at Gurgaon where this workman was posted as Mechanic was no entity of its own as it came within the territorial jurisdiction of Messrs Northern India Sales Corporation, Jullundur (Proprietor Usha Sales Private Limited) with its office at Jullundur which had employed him. It was further urged that this workman was transferred from Gurgaon to the Company's retail shop at Siri Ganga Nagar, Rajasthan,—*vide* letter No. ADM/EST/PC/3820, dated 9th/10th May, 1972, which comes within the jurisdiction of the Divisional Sales Manager, Rajasthan Industrial Distributors, New Delhi, which office had actually terminated his services since he had failed to report for duty at Siri Ganga Nagar. The following three issues arose for determination in the case from the pleadings of the parties :—

- (1) Whether the appropriate Government for purposes of making the reference is not the Haryana State Government and therefore, the present reference is bad in law and without jurisdiction ?
- (2) Whether Messrs Northern India Sales Corporation (Usha Sales) is a non-entity and the reference is bad in law for the non-joinder of the necessary party. If so, which is that necessary party ?
- (3) Whether the termination of services of Shri Niranjan Lal was justified and in order ? If not, to what relief is he entitled ?

The parties have been heard on issues Nos. 1 and 2 which have been treated as preliminary issues in the case. The management has examined one witness Shri Mohinder Kumar Gupta, Shop Incharge, Gurgaon, M.W.I and as many as 31 documents have been tendered in evidence including copies of the appointment letter, dated September 12, 1969, Ex.M-1, another letter, dated March 4, 1970 regarding the terms and conditions of employment Ex. M-2, transfer order dated May 9, 1972 from Gurgaon to Siri Ganga Nagar, Ex. M-3, A.D. receipt Ex. M-4, letter dated 24th July, 1972 of Shri Niranjan Lal asking for leave on medical ground Ex. M-5, medical certificate of a private practitioner dated 19th July, 1972, Ex. M-6, leave application dated 1st August, 1972 on the ground of illness of his son Ex. M-7, letter dated August 2, 1972 from the management giving details of his dues enclosing a cheque for Rs. 337 Ex. M-8, letter, dated 2nd August, 1972 from the management intimating that his leave applied for up to 31st July, 1972 had been sanctioned but there after nothing had been heard from him and he was advised to report at Siri Ganga Nagar immediately on the receipt of the letter failing which suitable action will be taken against him, letter dated 11th August, 1972 from Shri Niranjan Lal complaining that some of his dues have not been paid him in full, letter dated 15th August, 1972 from him asking for further leave for 17 days on account of the serious illness of his son, Ex. M-11, letter dated 21st August, 1972, from the management that the total amount of earned leave to his credit on 16th May, 1972 was 37 days and a cheque of Rs 32 representing his arrears for basic pay, etc., was enclosed Ex. M-12, A.D. receipt M-13, letter dated 21st August, 1972 from the management intimating him that with effect from August, 1972 he was being treated as absent from duty and in case he failed to join his duties immediately on receipt of the letter it would be presumed that he was not interested in continuing in service Ex. M-14, A.D. receipt Ex. M-15, letter addressed by Shri Niranjan Lal to the Divisional Sales Manager, Rajasthan Industrial Distributor, S-17, Green Park Extension, New Delhi-16, intimating that he would report for his duty in his office on 1st September, 1972 Ex. M-16, joining report by him in that office dated 1st September, 1972, Ex. M-17, letter dated 1st September, 1972 by the said office that since he was under transfer order to Siri Ganga Nagar he should report for duty directly at that place Ex. M-18, letter dated 2nd September, 1972 from Shri Niranjan Lal protesting that on account of his house hold circumstances the posting at Siri Ganga Nagar did not suit him but he was prepared to work at any Depot in Delhi Ex. M-19, another letter dated 20th September, 1972 to the same effect Ex. M-20, letter dated 30th September, 1972 from the management regretting inability to accede to his request for transfer to Delhi and giving him another opportunity to join at Siri Ganga Nagar latest by 9th October, 1972, Ex. M-21, A.D. receipt Ex. M-22, the order of discharge dated October 10, 1972, Ex. M-23 intimating further that a sum of Rs 592.80 representing three months salary in lieu of notice was being remitted to him by money order, A.D. receipt Ex. M-24, letter dated 7th October, 1972 from Shri Niranjan Lal that he was not intentionally avoiding joining his duty at Siri Ganga Nagar and that he should be posted at Delhi and he should also be paid his leave salary and cycle allowance for the months of July and September Ex. M-25, reply of the management dated 11th October, 1972 intimating that he had exhausted his entire leave due on 29th June, 1972 and as such was not entitled to any other allowance Ex. M-26, A.D. receipt Ex. M-27, letter dated 18th October 1972 by Shri Niranjan Lal protesting against the order of his discharge from service Ex. M-28, A.D. receipt Ex. M-29, letter dated April 30, 1973 Ex. M-30 accompanied by the statement showing details of service/repair charges payable to him for the period July, 1970 to May 22, 1972, when he remained posted at retail shop at Gurgaon, Ex. M-31.

Arguments have been addressed on both sides and I have given a very careful consideration to the facts on record and the authorities cited by the learned representatives of the parties.

The facts as made out from the documents referred to above which are admitted on both sides speak for themselves. The head office of the workman concerned was at Delhi and the order of his appointment was made by the Divisional Office at Jullundur who exercised the administrative control over him to all intents and purposes. He got his salary from that office and his leave etc. was also sanctioned by that office. The retail shop at Gurgaon where he was actually posted was in the circumstances of the case a non-entity. The present reference has arisen out of the order of his termination of service passed by the head office at Delhi, Ex. M-23 on record. The letter dated 18th October 1972 of protest against that order had also been addressed by him to the Delhi office which is

Ex. M-28. There is another aspect of the case which deserves consideration here. He was under transfer orders from Gurgaon to Siri Ganga Nagar, — *v.de* letter dated May 9, 1972, issued by the Divisional Office, Jullundur, Ex. M-3 and from the persual of his joining report dated 1st September, 1972, Ex. M-17, it would appear that he had reported for duty on that date in the head office at Delhi. In other words he had been relieved of his duties at Gurgaon for all practical purposes. He had no doubt not joined his duty at Siri Ganga Nagar and had been applying for leave on one ground or the other which was sanctioned subject to title. He had further pressed the management for his posting in any Depot at Delhi but his request was not acceded to. It is not necessary at this stage to go into the merits of the case as the parties have been heard only on the preliminary issues regarding the territorial jurisdiction of the said Government and the validity of the reference. Much stress has been laid on behalf of the workman concerned that his place of posting was at Gurgaon and he was also residing at a place near Gurgaon within the territorial jurisdiction of the State of Haryana and further that the appointment letter as well as the transfer orders were also delivered to him at Gurgaon. I am afraid these contentions are devoid of force and do not help the workman with regard to the matter involved in the preliminary issues referred to above. He had admittedly been transferred from Gurgaon and according to his own showing he had reported for duty in the head office at Delhi after the expiry of the leave which was due to him and had been sanctioned by the management. In the circumstances he had no longer anything to do with the retail shop at Gurgaon and the mere fact that he was a resident of a place in District Gurgaon would not confer jurisdiction upon the State Government to refer the dispute for adjudication within the meaning of the law. The learned representative of the workman has not been able to satisfy me to the contrary.

So for the reasons aforesaid issue Nos. 1 and 2 are decided against the workman holding that the State of Haryana was not the appropriate Government for purposes of making the present reference which is apparently without jurisdiction and further that the retail shop at Gurgaon from where the workman had already been transferred and which was not then his appointing nor the dismissing authority was a non-entity and the reference without impleading the real management was ill-conceived and bad in law.

The award is made accordingly and the reference shall in the result stand rejected as being without jurisdiction and bad in law. There shall be no order as to costs.

Dated 26th February, 1974.

O. P. SHARMA,
Presiding Officer
Industrial Tribunal, Haryana,
Faridabad.

No. 250, dated 27th February, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act 1947.

O. P. SHARMA,
Presiding Officer
Industrial Tribunal, Haryana,
Faridabad.

Dated 26th February, 1974.

No. 2450-4Lab-74/9353.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Haryana State Electricity Board.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK
Reference No. 53 of 1972
between

SHRI BRIJ LAL AND THE MANAGEMENT OF M/S HARYANA STATE ELECTRICITY BOARD, FARIDABAD

Present—

Shri Sagar Ram Gupta, for the workman.

Shri Chanchal Singh, for the management.

AWARD

The following dispute between the management of the Haryana State Electricity Board, Faridabad, and its workman Shri Brij Lal was referred for adjudication to this Court by order No. ID/FD/746-71/4626, dated 9th February, 1972, of the Governor of Haryana, in exercise of the powers conferred by clause (2) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Brij Lal was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties. The management contested the claim of the workman, and raised some legal objections given arising to the following three issues :—

- (1) Whether Shri Brij Lal is a workman of the respondent as defined under the Industrial Disputes Act ?
- (2) Whether the demand, the subject-matter of the present reference, stands settled for reasons given in the written statement of the management and no industrial dispute exists between the parties?
- (3) Whether the termination of services of Shri Brij Lal was justified and in order ? If not, to what relief is he entitled ?

In spite of several adjournments given in the case, the workman concerned is not coming forward to pursue his claim. His authorised representative Shri Sagar Ram Gupta has no instructions from him although he had personally written to him to attend the Court and produced evidence in support of his claim. No reasonable ground for further adjournment has been made out.

In the circumstance, there is no alternative but to decide issue No. 1 against the workman that he is not a workman of the respondent management as defined under the Industrial Disputes Act and I hold accordingly.

In view of my above finding on issue No. 1 and the other issue do not arise for consideration for the simple and obvious reasons that Shri Brij Lal applicant being not a workman as defined under the Act, there was no industrial dispute which could be referred for adjudication to this Court under section 10 of the Act.

The reference shall, in result stand, rejected as being bad in law and without judication.

Dated 7th March, 1974.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 720, dated 18th March, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 2066-4Lab-74/9355.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Usha Spinning and Weaving Mills, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 67 of 1973

between

SHRI PALAK DHARI WORKMAN AND THE MANAGEMENT OF M/S USHA SPINNING
AND WEAVING MILLS, MATHURA ROAD, FARIDABAD.

Present—

Shri Bhim Singh Yadav, for the workman.
Shri R. C. Sharma and Shri S. N. Shukla, for the management.

AWARD

Shri Palak Dhari concerned workman was in the service of M/s Usha Spinning and Weaving Mills, Mathura Road, Faridabad, as a conditionman. His services were allegedly terminated by the management with effect from 6th October, 1970, without any reasonable ground. He raised a demand for reinstatement which was not accepted by the management. This gave rise to an industrial dispute. Conciliation proceedings were initiated on the demand notice dated 7th February, 1973 which forms part of the present reference but the management did not show any willingness to take him back only contending that he had himself abandoned service by remaining absent from duty without proper authorisation.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute to this Tribunal—*vide* order No. ID/FD/73/195/18227, dated 26th May, 1973, with the following term of reference :—

Whether the termination of services of Shri Palak Dhari was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties. In the statement of claim filed on behalf of Shri Palak Dhari concerned workman it was urged that the management terminated his services without any notice in the month of February, 1973, on account of his trade union activities. The management on the other hand pleaded that as a matter of fact it was a case of self-abandonment of service by this workman due to absence from duty without proper authorisation which had resulted into loss of lien in the job held by him as per the standing orders of the company. From the pleading of the parties the following two issues arose for determination :—

- (1) Whether it is a case of self-abandonment of service by the workman due to absence from duty without proper authorisation resulting into loss of lien on the job as per the standing orders of the company? (on management)
- (2) Whether the termination of services of Shri Palak Dhari was justified and in order? If not, to what relief is he entitled?

The management has examined two witnesses M. W. 1, Shri S. P. Sirivastva, Senior Time-keeper and M. W. 2 Shri Goverdhan, Receipt and Despatch Clerk, and reliance has been placed upon 4 documents, namely, including extracts of the relevant entries in the attendance register Exhibit M-1, M-20 copy of the standing orders of the company Exhibit M-3, extract from the receipt register Exhibit M-4. It has been deposed that Shri Palak Dhari had remained absent from duty from 28th January, 1973 till 7th February, 1973 without obtaining any leave and his name had, therefore, to be struck off the rolls as per the standing orders of the company. It has further been stated that all letters received are entered in the receipt register and no letter had been received from this workman excepting the demand notice dated 7th February, 1973, on 12th February, 1973.

Shri Palak Dhari has made his own statement besides examining two other witnesses, namely, W. W. 2 Shri Krishana Nand, W. W. 3 Shri Bhai Ram. The sum and substance of the deposition made by the workman and his witnesses is that he had been taken ill on 24th and 25th January, 1973 but still he had attended to his duties and from 27th January, 1973, he had proceeded on leave on account of illness. According to Shri Palak Dhari he had sent the medical certificate to the management on 31st January, 1972, under registered cover, postal receipt Exhibit W-1, but when he reported for duty on 3rd February, 1973 and took the fitness certificate to the factory, the Labour Officer was not available. He has further stated that he continued attending the factory on 4th, 5th and 6th February, and that the Labour Officer took away the fitness certificate from him and asked him to attend to his duty but on the following day, when he went to the factory he was refused work and he, therefore, gave the demand notice giving rise to the present reference.

Arguments have been addressed on both sides and I have given a very careful consideration to the facts on record. The plea of self-abandonment of service taken by the management appears to be true. It finds support in the testimony of M. W. 1 and M. W. 2 and documents Exhibit M-1, M-2, M-3 and M-4 referred to above. No leave application or medical certificate showing that this workman had actually been taken ill and had applied for leave on medical ground for the period in question has been brought on record nor has any doctor been examined who had allegedly treated him and issued the so-called medical certificate. The vague and oral deposition made by him and his witnesses on the point cannot safely be relied upon. The learned representative of the workman has argued that the medical certificate was sent to the management but it has been withheld. This statement is belied the entries in the receipt register according to which only demand notice, the subject-matter of the present reference, was received from this workman, and no other letter or medical certificate.

There is another fact on record which cuts at the very root of the above plea of illness taken by the workman. In the statement of claim there is no mention that he had fallen ill and had sent medical certificate to the management along with any leave application. The only plea taken therein is that his services had been illegally terminated on account of his trade union activities. Since this plea of illness has not been taken in the statement of claim filed in the case, the presumption is that it is only an after-thought. If he had really been taken ill he should have specifically mentioned this fact in the statement of claim. No evidence worth consideration has been brought on record to indicate that he had been engaged in any trade union activities. He is not shown to be an office-bearer or active trade unionist by producing any cogent and convincing evidence, oral or documentary. There is nothing on record to indicate that the management had not *mala fide* motive against him. The standing orders of the company copy Exhibit M-3 on record speak for themselves. According to clause 12(h) of the said order if a workman remains absent from duty without any proper authorisation for more than 8

days, he is to be deemed to have left the service of the company. On the facts discussed above, the case of the present workman is clearly covered by the above provisions in the standing orders. His learned representative has not been able to satisfy me to the contrary. For the reasons aforesaid issue No. 1 is decided against the workman holding that it is a case of self abandonment of service by him due to absence from duty without proper authorisation resulting into loss of lien on the job held by him as per the standing orders of the company.

In view of my above finding on issue No. 1, issue No. 2 does not arise for consideration for the simple and obvious reason that the services of the workman were not terminated by the management and as such the management is not required to justify the same. It is a clear case of abandonment of service by the workman by his own conduct by remaining absent from duty without any proper authorisation and his name had, therefore, to be struck off the rolls. In the circumstances, he is not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly.

O. P. SHARMA

Dated: 25th February, 1974

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 248, dated 27th February, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

Dated: 25th February, 1974

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

The 2nd April, 1974

No. 2753-4 Lab-74/10022.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s. Subhash Saw Mills Yamuna Nagar:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 167 of 1972

between

SHRI SURJA AND THE MANAGEMENT OF M/S SUBHASH SAW MILLS,
YAMUNA NAGAR

Present.—

Shri Ram Kishan Sehgal for the workman.

Nemo for the management.

AWARD

By order No. ID/Amb/42-B-72/18250-4 dated 15th May, 1972 of the Governor of Haryana, the following dispute between the management of M/s Subhash Saw Mills, Yamuna Nagar and its workman Shri Surja was referred for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947.

"Whether the termination of services of Shri Surja was justified and in order ? If not, to what relief is he entitled ?"

Usual notices were given to the parties. The management contested the claim of the workman pleading *inter alia* that the demand the subject matter of the reference was not first raised on the management and rejected by it and as such it did not constitute an industrial dispute within the meaning of the law. The following issues were framed.

1. Whether the demand in question was first raised upon the management and rejected by it before taking up the matter to the matter to the consolidation ? If not to what effect ?

2. Whether the termination of services of Shri Surja was justified and in order ? If not, to what relief is he entitled ?

The management examined one witness T. K. Chaudhry Partner M. W. L. who admitted the receipt of the demand notice dated 10th January, 1972 Exhibit M. 1. According to him the saw mill had caught fire on 3rd March, 1971 and having been burnt down totally working in the mills had to be stopped altogether. He has further stated that Shri Surja concerned workman had put in service only for 2 or 3 months and some of his wages for the month of November, 1971 were still due.

After producing the above evidence in the case, the management has not taken any interest in the proceedings and as per his statement dated 20th November, 1973 their authorised representative Shri Subhash Chander also withdrew himself from the proceedings for want of necessary instructions. On behalf of the workman concerned his authorised representative Shri Ram Kishan Sahgal has made a statement on oath that after the termination of his services the workmen had approached the management for the settlement of his account but the management had rejected to do so without any justification. He has further stated that that the workman only wants his wages for the period of 2 months and 5 days he actually worked in the mills at Rs 120/- P. M. which have not yet been paid to him and he does not press his claim for reinstatement.

From the facts stated above, it would appear that the Saw Mill having caught fire and completely burnt down there was no work going and in the circumstances, the question of the reinstatement or re-employment of the workman concerned does not arise nor has he presented this claim as per the statement of his authorised representative Shri Ram Kishan Sahgal referred to above. His claim is now limited to the payment of his wages for the period of 2 months and 5 days he actually worked in the mills, the rate of his wages being Rs 120/- P. M. There is apparently no reason to disbelieve this claim especially when the management has elected not to appear and contest the case after examining its Partner Shri T. K. Chaudhry who has also not produced the relevant entries in the Attendance and Payment of Wages Registers. The issues involved are, therefore, decided in favour of the workman and against the management holding that the demand the subject matter of the present reference had been fully raised by the workman as required by law and that he is entitled to Rs 260/- as the arrears of his wages, the relief of reinstatement or re-employment having been foregone by him apparently on account of the closure of the business in the Mills in the circumstances discussed above. The award is made accordingly but without any order as to costs.

O. P. SHARMA,

Dated 25th March, 1974.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 789, dated 26th March, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2754-4Lab-74/10024.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s. Punjab Metal Trading Company Jagadhri.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 119 of 1972

between

SHRI RULDU RAM AND THE MANAGEMENT OF M/S. PUNJAB METAL TRADING
COMPANY, JAGADHRI

Present.—

Shri Subhash Chander, for the management.

Nemo, for the workman.

AWARD

Shri Ruldu Ram was in the service of M/s Punjab Metal Trading Company, Jagadhri. The management terminated his services with effect from 1st November, 1971 allegedly without any notice or charge-sheet. This gave rise to an industrial dispute.

The Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to this court,—*vide* order No. ID/Amb/214-B-72/11493-97, dated 4th April, 1972 with the following term of reference.

Whether the termination of services of Shri Ruldu Rom was justified and in order ? If not, to what relief is he entitled ?

The workman concerned has not turned up nor his authorised representative in spite of due notice. The management has pleaded settlement and filed the memorandum of settlement, dated 18th March, 1974 Exhibit M. 1 on record which has been proved by the statement on oath of Shri Subhash Chander authorised representative of the management. He has sworn testimony to the genuineness of the aforesaid settlement and Payment of Rs. 200 to the workman concerned in full and final settlement of his entire claims against the management including the right of reinstatement or re-employment.

In view of the above, no further proceedings are called for in the case as there is no reason to disbelieve the plea of settlement and full and final payment raised by the management especially when the workman is not coming forward to pursue his claim himself or through his authorised representative.

In the result, a no dispute award is given in terms of the above settlement but there shall be no order as to costs.

Dated 25th March, 1974.

O. P. SHARMA,

Presiding Officer,
Labour Court Haryana,
Rohtak.

No. 790, dated 26th March, 1974.

Forwarded (four copies) to the Secretary to Government, of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court Haryana,
Rohtak.

The 3rd April, 1974

No. 2796-4 Lab-74/10414.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s. Penguin Ceramic Industries, Bahadurgarh, Rohtak.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 87 of 1973

between

THE WORKMEN AND THE MANAGEMENT OF M/S. PENGUIN CERAMIC
INDUSTRIES, BAHADURGARH, ROHTAK

Present :—

Shri M. S. Rathi, for the workmen.

Shri R. C. Sharma, for the management.

AWARD

The following dispute between the management of M/s Penguin Ceramic Industries, Bahadurgarh, Rohtak and its workmen Sarvshri Nand Kishore Panday, Bankey Lal, Sada Nand, Ram Daras, Baij Nath, Ram Gati and Mundarika, was referred for adjudication to this Tribunal by order No. ID/RK/227-A-73/17079, dated 17th May, 1973 of the Governor of Haryana in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947 with the following terms of reference :—

Whether the termination of the following workmen were justified ? If not, to what relief are they entitled ?

1. Shri Nand Kishore Pande.
2. Shri Banke Lal.
3. Shri Sadanand.
4. Shri Ram Darsh.
5. Shri Baij Nath.
6. Shri Ram Gati.
7. Shri Munderika.

The parties have arrived at an amicable settlement. Their statements have been recorded. The management has agreed to pay to all the workmen concerned their earned wages, wages in lieu of earned leave besides 1½ months wages as *ex gratia* payment and later have given up their right of reinstatement or re-employment. This has been accepted on behalf of the workmen concerned.

In view of the above no further proceedings are called for in this reference and the award is made in terms of the above settlement arrived at between the parties. The amount due shall be paid to the workmen in the Court by 3rd of April, 1974. In the circumstances there shall be no order as to costs.

Dated 25th March, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal Haryana,
Faridabad.

No. 323, dated the 26th March, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 2791-4Lab-74/10416.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Usha Spinning & Weaving Mills, 12/1 Mathura Rd, Faridabad.

BEFORE SHRI O. P. SHARMA PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 16 of 1973

between

SHRI SHAMAL SINGH WORKMAN AND THE MANAGEMENT OF M/S USHA
SPINNING AND WEAVING MILLS, 12/1, MATHURA ROAD, FARIDABAD

Present:

Shri Darshan Singh for the workman.

Shri R. C. Sharma for the management.

AWARD

The following dispute between the management of M/s Usha Spinning and Weaving Mills, 12/1 Mathura Road, Faridabad and its workman Shri Shamal Singh was referred for adjudication to this Tribunal *vide* order No. 1D/FD/73/10585 The 14th March, 1973 of the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Shamal Singh was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties. The management contested the claim of the workmen giving rise to the following issues :—

- (1) Whether the demand the subject-matter of the present reference was first raised on the management and rejected by it before the matter was taken up for conciliation ? If not, with what effect ?
- (2) Whether the termination of services of Shri Shamal Singh was justified and in order ? If not, to what relief is he entitled ?

It is, however, not necessary to go into the above issues as an amicable settlement has been arrived at between the parties. As stated by Shri R. C. Sharma, authorised representative of the management, Shri Sham Singh workman concerned had approached the management to settle his account *vide* application dated 11th March, 1974 Exhibit M-1 and the amount found due as per mutual calculations was paid to him in full and final settlement of his entire claim against the management as per his application of the same date addressed to this Tribunal Exhibit M-2 on record. Shri Darshan Singh, authorised representative of the workman has no instruction from him to dispute the aforesaid settlement pleaded by the management and to proceed with the reference.

In view of the above, the presumption is irresistible that the workman concerned has already settled his dispute with the management and received his dues, in full and final settlement of his entire claim including right of reinstatement or re-employment. The award is accordingly made holding that the workman concerned is not entitled to any other relief in the case. There shall be no order as to costs.

O. P. SHARMA,

Dated the 25th March, 1974.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 321, dated 26th March, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Dated the 25th March, 1974.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No, 2797-4Lab-74/10418—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Escorts Ltd., Plant No. II, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 111 of 1972

between

SHRI GURNAM SINGH WORKMAN AND THE MANAGEMENT OF M/S ESCORTS LTD.,
PLANT II, FARIDABAD

Present:

Shri Darshan Singh for the workman.

Shri K. K. Khuller and Shri P. C. Aggarwal for the management.

AWARD

Shri Gurnam Singh concerned workman was in the service of M/s Escorts Ltd., Plant II, Faridabad whose services were allegedly terminated by the management with effect from 20th April, 1972 without any justification. He raised a demand for reinstatement but without success. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the above dispute for adjudication to this Tribunal *vide* order No. ID/FD/72/43101, dated 13th December, 1972 in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Gurnam Singh was justified and in order ? If not, to what relief is he entitled ?

Usual notices were given to the parties and they put in their respective written statements. The management contested the claim of the workman. It is, however, not necessary to go into the merits of the case as an amicable settlement has been arrived at between the parties, as per the terms and conditions given in the memorandum of settlement dated 4th February, 1974 Ex. M-1 which is signed by Shri Gurnam Singh workman concerned and by Shri P.S. Minhas, Personnel Manager. It is witnessed by Shri Jagdish Singh Cashier of the union and Shri O.P. Kapoor, an assistant, in the Personnel Department. Shri P.C. Aggarwal, Industrial Relations Officer of the management has come into the witness box and sworn testimony the genuineness of the said settlement and according to him the sum of Rs 2,192 has been paid to Shri Gurnam Singh, in full and final settlement of his entire claims against the management, as agreed and he has given up his right of reinstatement or re-employment. Shri Darshan Singh authorised representative of the workman has no instructions from him to dispute the above settlement and proceed further with the case.

In view of the above, I am satisfied that the dispute has been finally settled between the parties as stated on behalf of the management. The award is accordingly made holding that the workman having received his dues in full and final settlement of his entire claim against the management including the right of reinstatement or re-employment, he is not entitled to any other relief. In the circumstances, there shall be no order as to costs.

O. P. SHARMA,

Dated the 22nd March, 1974.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 322, dated 26th March, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,
Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated the 22nd March, 1974.

No. 2790-4Lab-74/10420.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s United Oil Mills Machinery and Spare Parts Ltd., Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Application Nos. 6 to 15 of 1973 under Section 33-A of the Industrial Disputes Act, 1947
between

THE WORKMEN AND THE MANAGEMENT OF M/S UNITED OIL MILLS MACHINERY
AND SPARES LTD., MATHURA ROAD, FARIDABAD

Present :

Shri Sunhari Lal for the workmen.

Shri S.L. Gupta for the management.

AWARD

This judgement will dispose of this and the connected complaints Nos. 7 to 15 of 1973 brought by Sarvsh Puran Chand, Sham, Mukand Lal, S.K. Dass, Sukhari, Ramji Lal, Roop Chand, Raghbir Singh, Chandi Rai Chander Bhan Banga, workmen of M/s United Oil Mills Machinery and Spares Ltd., Mathura Road, Faridabad under section 33-A of the Industrial Disputes Act, 1947 with the allegations that they had been laid off

19th January, 1973, during the pendency of reference No. 98 of 1971 and since the impugned action amounted to a change in the conditions of their service it had contravened the provisions of section 33 of the Industrial Disputes Act, 1947 and they were entitled to full wages from the date of the lay-off.

The complaints have been contested on behalf of the management on the simple ground that the lay-off in question which is permissible under the law itself does not amount to a change in service conditions of the workmen and as such the complaints are not maintainable.

Since a common question of law was involved in all the cases, the same have been consolidated and the parties have been heard on the above preliminary objection raised on behalf of the management.

It has been argued on behalf of the management that since there was no work in the Moulding Shop where the present complainants were working they had to be laid off and full dues were paid to them for the lay-off period. It has further been stated that the workers who had been rendered surplus for want of work in the Moulding Shop had subsequently to be retrenched on payment of retrenchment compensation, notice pay, earned leave, wages, etc., and no dispute has been raised by them so far in the matter of retrenchment.

The law is clear on the point. The definition of lay-off as given in section 2 (kkk) of the Industrial Disputes Act, reads as under :—

"Lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the breakdown of machinery or for any other reason to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched."

The complainants have not alleged that none of the aforesaid circumstances existed when they were laid off and how the action of lay-off taken against them by the management was illegal. The conclusion is, therefore, irresistible that laying off of the workmen under the circumstances referred to above being the legal right of the management it does not amount to change of conditions of their service and as such the provisions of section 33-A are not attracted to the facts of the instant cases to validate the complaints. The learned representative of the complainants has not been able to satisfy me to the contrary.

The complaints shall, in the result, stand dismissed as being not maintainable. There shall be no order as to costs.

Dated the 25th March, 1974.

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 320, dated the 26th March, 1974]

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 25th March, 1974

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 2798-4Lab-74/10425.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s. Trucks Pharmaceutical (P.) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 8 of 1974

between

SMT. URMILA RANI, WORKMAN AND THE MANAGEMENT OF M/S TRUCKS
PHARMATICAL (P.) LTD., FARIDABAD.

Present :—

Shrimati Urmila Rani, concerned workman, with Shri K. L. Sharma.

Shri Jaspal Singh, Managing Director, for the management.

AWARD

Miss Urmila Rani, concerned workman, was in the service of M/s. Trucks Pharmaceutical (P.) Ltd., Faridabad. The management allegedly terminated her services with effect from 31st July, 1973, without any notice or charge-sheet. Felling aggrieved, she raised a demand for reinstatement but without success. This gave rise to an industrial dispute. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this Tribunal.—*vidz* order No. ID/FD/73/555/2115, dated 23rd January, 1974 in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference :—

Whether the termination of services of Shrimati Urmila Rani was justified and in order ? If not, to what relief is she entitled ?

Usual notices were given to the parties who have arrived at an amicable settlement. Their statements have been recorded.

According to the settlement the management has agreed to take Miss Urmila Rani, worker, on duty at Rs. 125 P. M. with continuity of her previous service, as well as to pay her Rs. 200 as *ex gratia* payment in addition to her earned wages. It has further been agreed that the intervening period will otherwise be treated as leave without pay. She has been given the option to join her duty on any day that suits her convenience and the amount due shall be paid to her on the date she reports for duty.

In view of the above, no further proceedings are called for and the award is made in terms of the above settlement which shall be binding on both the parties. No order as to costs.

Dated 21st March, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 329, dated 26th March, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 21st March, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 2792-4Lab-74/10427.—In pursuance of the provisions of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Micro Precision Products, 4 Link Road, Mathura Road, Faridabad :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 87/72

between

THE WORKMEN AND THE MANAGEMENT OF M/S MICRO PRECISION PRODUCTS, 4, LINK ROAD, MATHURA ROAD, FARIDABAD

Present.—Nemo, for the workmen.

Shri S. L. Gupta, for the management.

AWARD

By order No. ID/FD/72/40761, dated 23rd November, 1972, of the Governor of Haryana the following disputes between the management of M/s Micro Precision Products, 4 Link Road, Mathura Road, Faridabad and its workmen were referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

- (1) Whether the suspension of Sarvshri Badan Kumar, Siri Chand, Mam Raj, Jai Narain, Zakir Ali and R. K. Sharma with effect from 18th May, 1972, was justified and in order ? If not, to what relief are they entitled ?

- (2) Whether the management should pay wages to the workmen for the period of strike commencing from 19th May, 1972 ? If so, with what details ?
- (3) Whether the management should pay bonus to their workmen for the years 1969-70, 1970-71 and 1971-72 ? If so, with what details ?
- (4) Whether the management should pay dearness allowance to their workmen ? If so, with what details ?
- (5) Whether the management should supply the uniforms to their workmen ? If so, with what details ?

On receipt of the order of reference usual notices were given to the parties. The workmen concerned are not coming forward to pursue their demands and their authorised representative Shri Pasham Singh who had given the demand notice leading to the reference has also elected not to appear and refute the plea of full and final settlement raised on behalf of the management. The management was, therefore directed to produce the relevant record.

Shri Y. P. Malhotra, Factory Manager, had appeared and made a statement on oath that in the month of May 1972 the workers had gone on strike but on 27th June, 1972, a settlement was arrived at between them and the management. According to the settlement all the workers tendered their resignations which were duly accepted and collected their dues against vouchers signed and thumb-marked by them. Shri Malhotra has produced the resignations of the workers, Exhibit M-1 to M-28. He has also shown the original vouchers duly signed or thumb marked by the workmen which have been seen and returned as the same are required by the management for income tax assessment purposes.

I have heard the learned representative of the management and considered the facts on record. In view of the resignations tendered by the workmen which were duly accepted by the management and collection of their dues, in full and final settlement of their claims as per vouchers referred to above, the presumption is irresistible that there is now no dispute left between the parties especially when the workmen or their authorised representatives are not coming forward to pursue the case.

The issues involved are accordingly decided against the workmen who had raised the dispute holding that they are not entitled to any relief in the case. The award is made accordingly. It is necessary to mention here that according to the statement of Shri Y. P. Malhotra, Factory Manager, the work in the factory is still going, on after the recruitment of fresh workers who have not raised any dispute nor are they parties to the present reference and as such, the present award would not be binding on them. In the circumstances, there shall be no order as to costs.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 326 dated 26th March, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 25th March, 1974.

No. 2795-4Lab-74/10429.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s. Anand Industrial Corporation, 13/7, Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 24 of 1973 and Nos. 42 to 53, 60, 63, 82 and 83 of 1973

between

THE WORKMEN AND THE MANAGEMENT OF M/S ANAND INDUSTRIAL CORPORATION,
13/7, MATHURA ROAD, FARIDABAD

Present :

Shri Pasham Singh, for the workmen.
Shri S. L. Gupta, for the management.

AWARD

This judgement will dispose of this and the connected references Nos. 42 to 53, 60, 63, 82 and 83 of 1973 between the management of M/s. Anand Industrial Corporation, 13/7, Mathura Road, Faridabad and its workmen Sarvshri Naserudin, Arjan Parshad, Sajid Ali, Jakhoo Ram, Mubarik Ali, Munshi, Puran Chand Yadav, Kidar Nath, Babu, Ram Abhilash, Ram Adhar, Kundan, Itwari, Vijaives, Ram Jiwan I, Dharam Vir, Ram Jiwan II, which stand consolidated, their being common questions of law and facts involved in all the cases. The facts material for the judgement may in short be stated as under :—

The workmen named above had been in the service of the said management for a number of years. Their services were allegedly terminated with effect from 21st September, 1972 without any notice or charge-sheet. On the same day they gave the demand notice whereupon conciliation proceedings were initiated which ended in failure.

On receipt of the failure report from the Conciliation Officer in each case, the Governor of Haryana referred the above dispute for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 with the following terms of reference which is common in all the cases.

Whether the termination of services of the workmen concerned was justified and in order ? If not, to what relief is he entitled ?

Usual notices were given to the parties. The workmen concerned did not file any claim statement and relied only on the demand notices given to the Conciliation Officer which form part of the present reference. The management, on the other hand, pleaded that as a matter of fact these workmen had only been laid off for a period of 10 days and their services had not yet been terminated and as such the references were premature and bad in law. It was further pleaded that the demands, the subject matter of the present references were not raised upon the management and rejected by it before taking up the matter for conciliation. The following two preliminary issues arose for determination in the case and I have heard the parties on these issues.

- (1) Whether the management has not terminated the services of the workmen concerned and therefore, the references are premature and bad in law ? (on management).
- (2) If issue No. 1 is not proved whether the demand the subject matter of the present reference was served on the management and rejected by it before taking the matter for conciliation ? If not, with what effect ?

The management has examined its partner Shri H. S. Anand M. W. 1 who has proved as many as 25 documents, including copy of the lay off notice, dated 19th September, 1972 sent to the Labour Commissioner, Haryana, Chandigarh Exhibit M-1, Postal and A.D. receipts Exhibit M-2, M-3, M-4, M-5, notices received from the Conciliation Officer M-6, M-7, along with the demand notices M-8 to M-15, copy of the reply sent to the Conciliation Officer, dated 1st October, 1972 M-16, Postal receipt M-17, A.D. receipt M-18, M-19, certificate of posting M-20, copy of the reminder sent to the Conciliation Officer on 6th October, 1972 M-21, notice received from the Conciliation Officer in respect of Shri Nasrudin M-22, copy of the reply sent to the notice M-23, another notice received from the Conciliation Officer M-24 and copy of the reply, dated 4th January, 1973 M-25.

On behalf of the workmen concerned Shri Sajid Ali came into the witness-box as W.W. 1 and Shri Pasham Singh, General Secretary of the then Engineering Workers Union who had given the demand notice leading to the present reference has been examined as W.W. 2. The workmen have not relied upon any documentary evidence.

The case has been fully argued on both sides and I have given a careful consideration to the facts on record.

As laid down by Hon'ble the Supreme Court in Sindhu Resettlement Corporation case a demand has to be raised first on the management and rejected by it before it can constitute an industrial dispute within the meaning of the law. The plea raised on behalf of the management in the instant cases is that no such demand was made by any of the workmen concerned. The burden was on the workmen to establish by bringing on record cogent and convincing evidence, oral or documentary, that they had raised their demands direct on the management and the same had been rejected before the matter was taken up for conciliation but they have simply failed to discharge the burden. According to their own showing, as per the statement of W.W. 1 Sajid Ali their services were terminated with effect from 21st September, 1972 when they were refused entry in the factory premises by the Chowkidar under instructions from the Proprietor. He has nowhere stated that he or the other workers or their authorised representatives had approached the management for taking them on duty before initiating the conciliation proceedings. This fact is further established from the pursual of the demand notices given by the workmen which are of 21st September, 1972. In other words they straightway approached the Conciliation Officer before raising their demands on the management and giving it reasonable time for consideration before rejecting the same. Thus the conduct of the workmen by giving the demand notices to the Conciliation Officer on the very day they are alleged to have been removed from service without raising the demands on the management shows beyond any shadow of doubt that they have not complied with the requirements of rule or

law, as laid down by the Hon'ble of Supreme Court in the above noted case. Consequently the conclusion is irresistible that there existed no industrial disputes between the workmen and the management which could validly be referred for adjudication to this Tribunal.

The other plea raised by the management that the services of the workmen had not yet been terminated and the references were premature has also been sustained by a number of documents referred to above. According to the management the workers had only been laid off for 10 days for want of work and notice of the retrenchment was given to the Labour Commissioner Haryana, Chandigarh, Exhibit M-1 and the same was exhibited on the notice board in the factory and further that the workmen were informed accordingly but they straightway raised the dispute by giving the demand notices to the Conciliation Officer referred to above. Some correspondence had been exchanged between the management and the Conciliation Officer and a pursual of the replies sent by the management to the notices received from the Conciliation Officer would show that the management had taken the same plea there, i.e., the workmen had only been laid off their services had not been terminated and they should be advised to report for duty. A reminder was sent to the same effect. For reasons best known to themselves, none of the workmen, however, came forward to join his duty. The management has expressed its willingness to take the workmen on duty even now but without payment of back dues. It has been stated that on account of the above conduct of the workmen the work in the factory has been at a stand still as during the pendency of the present dispute the management has not considered it desirable to recruit fresh workmen. There is no reasonable rebuttal of the above evidence adduced on behalf of the above management on the specific plea that the services of the workmen have not yet been terminated.

That disposes the entire case and for the reasons aforesaid the preliminary issues Nos. 1 and 2 are decided against the workmen and in favour of the management holding that the services of the workmen having not yet been terminated the references are premature and bad in law and further that the demands having not been raised first on the management and rejected by it, before taking up the matter for conciliation they did not constitute industrial disputes within the meaning of the law as laid down by the Hon'ble Supreme Court in the case referred to above.

In view of my above findings on preliminary issues Nos. 1 and 2, it is not necessary to go into the merits of the case as for the reasons aforesaid the references stand to be rejected as being premature and bad in law and without jurisdiction. The awards are made accordingly but there shall be no order as to costs.

The 21st March, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 324, dated the 26th March, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 21st March, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 2854-4Lab-74/10431.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Swastika Woolen Mills, Panipat.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 67 of 1971

between

THE WORKMEN AND THE MANAGEMENT OF M/S SWASTIKA WOOLLEN MILLS, PANIPAT

Present.—Shri Madhu Sudan Saran Cowshish, for the workmen.

Shri Roshan Lal Gupta and Shri Surinder Kaushal, for the management.

AWARD

By order No. ID/KNL/37A-70/15722, dated 24th May, 1971 of the Governor of Haryana, the following dispute between the management of M/s Swastika Woolen Mills, Panipat and its workmen Sarvshri Hari Singh and others (25 workmen) was referred for adjudication to this Court, in exercise of the powers conferred by

clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947. The following terms of reference are as under :—

Whether the termination of services of the workmen (given below) was justified and in order ? If not, to what relief are they entitled ?

The parties were called upon to put in their respective written statement. On behalf of the workmen concerned it was urged that their services had been illegally terminated and persons junior to them had been retained in service. The management contested their claim and raised a legal objection questioning the jurisdiction of the court. The following issues were framed :—

- (1) Whether the Court has no jurisdiction to adjudicate upon the present reference ? (on management.)
- (2) Whether the applicants have been wrongfully retrenched ?
- (3) If the above issue is not proved whether the termination of services of the workmen as mentioned in the notice of demands was justified and in order ? If not, with what relief they are entitled ?

Two of the workmen concerned, namely, Mahabir Parshad and Jamuna Dass have come into the witness box besides examining Shri Jai Pal Singh, General Secretary of the Wool Khadi and Textile Workers Union, Panipat. On the other hand, the management has examined two witnesses, namely, Shri R.P.L. Sharma, Manager M.W. 1 and Shri Gurcharan Dass Partner M.W. 2. Reliance has further been placed upon documentary evidence consisting of the application for the appointment of Shri Jamuna Dass Ex. M-1, appointment letter issued to him Ex. M. 2, appointment letter of Mahabir Parshad M-3, letters of extension of service of Shri Ram Kishan Ex. M.W. 1/3 and Ex. M.W. 1/4, copy of the order, dated 28th March, 1970, Ex. M.W. 1/2, copy of another order Ex. M.W. 1/1, list of the workers Ex M.W. 1/5.

Arguments have been heard on both sides and I have given a careful consideration to the issues involved. A perusal of the demand notice which is the base of the present reference would show that according to the workmen concerned their services had been illegally retrenched by the management without complying with the requirements of law. From the statement of Shri Amir Chand Gupta Manager, M.W. 1, it is clear that there were more than 100 workers working in the factory, the exact number according to him being between 180 to 210. The learned representative of the workmen concerned has stated at the par that the case of the workmen is against their illegal retrenchment. Manifestly, on the facts admitted in the case, this court has no jurisdiction in the matter, for the simple and obvious reason that the number of the workmen in the factory being more than 100 and the question for the determination being the validity or otherwise of the retrenchment of the workmen concerned it falls within the jurisdiction of the Industrial Tribunal as per the third schedule of the Industrial Disputes Act, 1947. The learned representative of the workmen concerned has not been able to satisfy me to the contrary. Issue No. 1 is therefore decided in favour of the management and against the workmen concerned holding that the reference being bad in law and without jurisdiction, this court is not competent to adjudicate upon the demand of the workmen.

In view of my above finding on issue No. 1, it is not necessary to go into the other issues involved in the case and the award is accordingly made holding the reference to be bad in law and without jurisdiction. There shall be no order as to costs.

Dated, the 26th March, 1974.

O.P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 804, dated 27th March, 1974

Forwarded (four copies) to the Secretary to Government, Haryana Labour and Employment Department, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1974.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2794-4Lab-74/10433.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M. Usha Spinning and Weaving Mills Ltd, 12/1, Mathura Road, Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Application Nos. 1 and 2 of 1973 under section 33-A of the Industrial Disputes Act, 1947.

between

SHRI MADAN LAL BINDLISH, WORKMAN AND THE MANAGEMENT OF M/S USHA SPINNING
AND WEAVING MILLS LTD., 12/1 MATHURA ROAD, FARIDABAD

Present.—Shri Madan Lal Bindlish workman concerned.

Shri R.C. Sharma and Shri S.N. Shukla, for the management.

AWARD

This judgement will dispose off this and the connected complaint No. 2 of 1973 brought by Shri Madan Lal Bindlish complainant against the management of M/s Usha Spinning and Weaving Mills Ltd., 12/1 Mathura Road, Faridabad under section 33-A of the Industrial Disputes Act, 1947. The facts material for the decision may be stated as under :—

Shri Bindlish complainant was working as a Compounder in the dispensary of the respondent since 1st October, 1973. His grievance is two-fold, firstly that under the contract of his service his duty hours were from 9 A.M. to 9 P.M. but with effect from 21st July, 1971 the respondent had changed the duty hours from 9 P.M. to 5 A.M. without giving him the requisite notice under section 9-A of the Industrial Disputes Act, 1947 and, secondly that his services had been illegally terminated with effect from 1st January, 1973. His case is that since the aforesaid impugned action against him were taken by the management during the pendency of references Nos. 76 of 1969 and 35 of 1970 in which he was a workman concerned and no prior permission or approval of this Tribunal was obtained, there was a clear contravention of the provisions of section 33 of the said Act and hence this complaint. He has prayed for reinstatement with full back wages and the restoration of his duty hours from 9 A.M. to 5 P.M.

The respondent has controverted his above allegations and the following issue arose for determination which is common in both the cases.

Whether there has been any violation of the provisions of section 33-A of the Industrial Disputes Act, 1947, If so, what relief is the claimant entitled to ?

The complainant has made his own statement and placed on record copy of the order, dated 20th July, 1971 regarding the change of his duty hours as stated above Ex. W.1 and copy of the Gazette Notification dated November 21, 1972, wherein the joint award, dated 27th October, 1972 in the aforesaid references was published. No evidence has been led on behalf of the respondent.

I have heard the parties and given a careful consideration to the facts on record. A perusal of the Gazette Notification Ex. W-2 would show that both the references Nos. 76 of 1969 and 35 of 1970 were disposed of on 7th October, 1972 on the basis of a settlement arrived at between the parties and the award was published in the Government Gazette, dated November 21, 1972 under section 17 of the Industrial Disputes Act, 1947, the award became enforceable on the expiry of 30 days from the date of its publication and this provision read with section 20 of the Act would show that the pendency for the purpose of section 33 ended on 21st November, 1971 when the requisite period of 30 days after the publication of the award in the Government Gazette was over. Complaint No. 1 which purports to be of 27th December, 1972 was filed by the complainant on 1st January, 1973 while complaint No. 2 was filed by him on 27th March, 1973. Manifestly both the complaints were filed when no reference was pending before this Tribunal within the meaning of law as laid down under section 20 read with section 17 of the Industrial Disputes Act, 1947 and that being so the question of controversion of the provisions of section 33 in their case does not arise.

It would thus appear that according to the showing of the complainant himself the provision of section 33-A are not attracted to the facts of the instant cases and their being no violation of the requirements of law laid herein the complaints stand to be dismissed as being not maintainable and I order accordingly. In the circumstances there shall be no order as to costs.

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 325, dated 26th March, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 21st March, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 2793-4Lab-74/10435.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act. No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Escorts Ltd., Plant No. II, Faridabad.

**BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD**

Reference No., 191 of 1973
between

THE WORKMEN AND THE MANAGEMENT OF M/S EXCORTS LTD., PLANT II, FARIDABAD

Present.—Shri Subhash Chander Sethi, General Secretary of Escorts Employees Union, Plant II, Faridabad.

Shri P.C. Aggarwal, Industrial Relation Officer, for the management.

AWARD

The workmen of M/s Escorts Ltd., Plant II, Faridabad raised certain demands which were referred for adjudication to this Tribunal by the Governor of Haryana, *vide* order No.ID/45232, dated 30th November, 1973 in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947. The terms of reference are as under :—

- (1) Whether the workers are entitled to the grant of Dearness Allowance at enhanced rate ? If so, with what details ?
- (2) Whether the production incentive allowance should also be paid to the workers working in Sales, Purchase, Personnel, Security Accounts Deptts. of the establishment ? If so, with what details ?
- (3) Whether the suspension of Sarvshri Bhagwan Dass and M.C. Tyagi is justified and in order ? If not, to what relief are they entitled ?

Usual notices were given to the parties. An amicable settlement has been arrived at with regard to the aforesaid demands and some other demands of the workmen as per terms and conditions given in the memorandum of settlement, dated 15th February, 1974 Ex. M-1. On the joint request of the parties their statements have been recorded with regard to the said settlement.

Shri P.C. Aggarwal, Industrial Relation Officer has appeared on behalf of the management while Shri Subhash Chander Sethi, General Secretary, Escorts Employees Union, Faridabad, who had given the demand notice leading to the present reference has appeared on behalf of the workmen concerned. Both have sworn testimony to the correctness of the said settlement which is signed by Sarvshri Chandi Ram, President, Braham Dev and Sewa Ram, Vice-President, Subhash Chander Sethi, General Secretary and Khilan Singh, Propaganda Secretary, Sarvshri S.D.S. Mongia Vice-President, R.S. Vasdev, Manufacturing Manager and Shri P.S. Minhas, Personnel Manager have signed the settlement for the management.

According to the settlement arrived at between the parties it has been agreed that demand No. 1 regarding increase in the dearness allowance shall be considered by Shri S.D.S. Mongia, Vice-President who will announce his decision before 31st March, 1974 and the increase would be effective from 1st March, 1974. In view of this agreement with regard to demand No. 1 and the settlement arrived at between the parties with regard to some other demands, which are not the subject matter of the present reference, the workmen concerned have given up their demands covered by terms Nos. 2 and 3 of the order of reference as stated above.

There is thus no dispute left between the parties and the award is accordingly made in terms of the settlement Ex. M-1 discussed above. In the circumstances, there shall be no order as to costs.

O.P. SHARMA,

Dated the 25th March, 1974.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 327, dated the 26th March, 1974

Forwarded (four copies) to the Secretary to Government Haryana. Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated the 25th March, 1974.

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

S.N. BHANOT,
Commissioner for Labour and Employment and
Secretary to Government, Haryana.